

Application No. 10/721,808  
Amendment dated October 25, 2006  
Reply to Office Action of July 25, 2006

**REMARKS**

Claims 1-5, 7-26, 34, and 35 are pending in the application. Claims 6 and 27-33 have been canceled. Claims 15 and 25 have been withdrawn from consideration. No claims have been allowed.

**Abstract**

The Abstract has been amended to reduce the number of words therein.

**Claim Rejections - 35 U.S.C. § 102**

The Examiner rejected Claims 1-6, 13-14, 16-24 and 26 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,814,734 (hereinafter "Chappuis et al. '734"). Applicants have canceled Claim 6, thereby rendering moot the rejection thereof.

Chappuis et al. '734 discloses surgical instrument 20, shown in Figs. 1 and 2, including elongate member 22 and actuator mechanism 24. Elongate member 22 includes sleeve 26 and expandable tip 28 having a pair of cutting elements 30, 32 pivotally movable to an expanded configuration. Cutting elements 30, 32 include at least one cutting edge 36.

Nowhere does Chappuis et al. '734 disclose or suggest a reamer including a shank, a reamer body with a blade formed therein, the blade including at least one deformation point located at a predetermined distance from the shank, as called for in amended independent Claim 1, or a reamer including a shank, a reamer body with a blade formed therein, the blade having a blade length and including a deformation point located at a predetermined distance along the blade length, as called for in amended independent Claim 17.

In contrast, cutting elements 30, 32 of the Chappuis et al. '734 instrument are pivotally movable between a contracted position (Fig. 1) and an expanded position (Fig. 2). Chappuis et al. '734 does not disclose or suggest a blade having a deformation point, but rather discloses cutting elements 30, 32 connected at a distal end of sleeve 26 and pivotally movable relative to sleeve 26.

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Because Chappuis et al. '734 does not disclose or suggest a reamer including a shank, a reamer body with a blade formed therein, the blade including at least one deformation point located at a predetermined distance from the shank, as called for in amended independent Claim 1, or a reamer including a shank, a reamer body with a blade formed therein, the blade having a blade length and including a deformation point located at a predetermined distance along the blade length, as called for in amended independent Claim 17, Applicants respectfully submit that independent Claims 1 and 17, and Claims 2-5, 13, 14, 16, 18-21, 23, 24, and 26 depending therefrom, are patentable over Chappuis et al. '734.

The Examiner rejected Claims 1-11, 13-14, 16-21, 23, 24, and 26 under 35 U.S.C. § 102(e) as being anticipated by WO 01/60262 to Cragg et al. (hereinafter "Cragg et al. '262"). Applicants have canceled Claim 6, thereby rendering moot the rejection thereof.

Cragg et al. '262 discloses motor driven recess forming tool 400, shown in Figs. 30-32, including cutting tool 420 formed of a flexible metal that is slit lengthwise into a number N cutting tool bands 424. Pull wire 414 pulls cutting tool distal end 422 proximally causing the N cutting tool bands 424 to bow outward, as shown in Fig. 31.

Nowhere does Cragg et al. '262 disclose or suggest a reamer including a shank, a reamer body with a blade formed therein, the blade including at least one deformation point located at a predetermined distance from the shank, the at least one deformation point including a discontinuity in the blade, as called for in amended independent Claim 1, or a reamer including a shank, a reamer, and a blade formed in the reamer body, the blade having a blade length and including a deformation point located at a predetermined distance along the blade length, the at least one deformation point including a discontinuity in the blade, as called for in amended independent Claim 17.

In contrast, cutting tool bands 424 are continuous pieces of material which have constant thickness and width along the length thereof. Bands 424 do not include any discontinuity which facilitates deformation of bands 424 at a predetermined distance along the length of tool 400. Advantageously, having discontinuities at a predetermined distance along the length of the blade of the reamer, as called for in amended independent Claims 1 and 17, provides a known and

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predefined location for the deformation of the blade. Without such discontinuities at predetermined distances, the deformation of the blade is exclusively controlled by the external environment and the material characteristics of the blade, thereby disadvantageously removing control from a user of the reamer regarding the location of the deformation of the blade.

Because Cragg et al. '262 does not disclose or suggest a reamer including a shank, a reamer body with a blade formed therein, the blade including at least one deformation point located at a predetermined distance from the shank, the at least one deformation point including a discontinuity in the blade, as called for in amended independent Claim 1, or a reamer including a shank, a reamer, and a blade formed in the reamer body, the blade having a blade length and including a deformation point located at a predetermined distance along the blade length, the at least one deformation point including a discontinuity in the blade, as called for in amended independent Claim 17, Applicants respectfully submit that independent Claims 1 and 17, and Claims 2-5, 7-11, 13, 14, 16, 18-21, 23, 24, and 26 depending therefrom, are patentable over Cragg et al. '262.

Regarding amended independent Claims 12 and 22, neither Chappuis et al. '734 nor Cragg et al. '262 disclose or suggest a reamer body with a shaft having a polygonal cross-section. Advantageously, with a polygonal cross-sectional reamer body having an edge of the blade coincident with an apex formed by two adjacent sides of the polygonal reamer body, the blade edge is the only portion of the blade which contacts a surface during a reaming operation, thereby increasing the efficiency of the reaming operation. See, Figure 2 and paragraph [0013] of the present application as filed. As such, Applicants respectfully submit that Claims 12 and 22 are patentable over both Chappuis et al. '734 and Cragg et al. '262.

#### New Claims

Applicants have added new Claims 34 and 35. Applicants respectfully submit that Claims 34 and 35 are patentable for at least the reasons advanced above with respect to Claims 1 and 17 from which Claims 34 and 35 depend.

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**Withdrawn Claims**

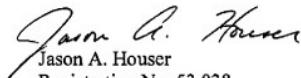
Applicants respectfully request allowance of withdrawn Claims 15 and 25 if independent Claims 1 and 17, from which Claims 15 and 25 depend, are held allowable.

It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



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**CERTIFICATE OF ELECTRONIC FILING**

I HEREBY CERTIFY THAT THIS CORRESPONDENCE  
IS BEING FILED ELECTRONICALLY WITH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE, ON: October 25, 2006

JASON A. HOUSER, REG. NO. 53,038  
NAME OF REGISTERED REPRESENTATIVE



SIGNATURE

October 25, 2006  
DATE